

Effective 5/10/2016

53-13-106.11 Agreement for local law enforcement to enforce federal law -- Legal recourse to enforce.

- (1) As used in this section:
 - (a) "Bureau" means the Bureau of Land Management, within the department.
 - (b) "Department" means the United States Department of the Interior.
- (2) The chief executive officer of a political subdivision or a county sheriff may, in accordance with Subsection (3), determine that the bureau's failure to enter into an agreement described in Subsection 53-13-106.9(3) violates the political subdivision's rights under 43 U.S.C. Sec. 1733(c)(1).
- (3) In evaluating whether a violation of 43 U.S.C. Sec. 1733(c)(1) has occurred, the chief executive officer of a political subdivision or a county sheriff may consider:
 - (a) whether the bureau or the department has, by the words or actions of an employee or agent of the bureau or department, effectively determined that assistance is necessary in enforcing federal laws and regulations relating to public lands or the resources of public lands;
 - (b) whether the bureau or the department has:
 - (i) offered to contract with appropriate officials of the political subdivision that have law enforcement authority in the political subdivision's jurisdiction; and
 - (ii) made an offer described in Subsection (3)(b)(i) with the view of achieving maximum feasible reliance upon local law enforcement officials in enforcing federal laws and regulations relating to public lands or the resources of public lands;
 - (c) whether the bureau or the department has negotiated on reasonable terms with local officials who have authority to enter into a contract described in Subsection (3)(b);
 - (d) whether the contract described in Subsection (3)(b) authorizes the local law enforcement officials and the local law enforcement officials' agents to:
 - (i) carry firearms;
 - (ii) execute and serve any warrant or other process issued by a court or officer of competent jurisdiction;
 - (iii) make arrests without a warrant or process for:
 - (A) a misdemeanor that a local law enforcement official or an agent of the local law enforcement official has reasonable grounds to believe is being committed in the local law enforcement official's or agent's presence or view; or
 - (B) a felony if a local law enforcement official or an agent of the local law enforcement official has reasonable grounds to believe that the person to be arrested has committed or is committing a felony;
 - (iv) search without a warrant or process any person, place, or conveyance, in accordance with federal law or rule of law; and
 - (v) seize without a warrant or process any evidentiary item as provided by federal law;
 - (e) whether the bureau or department has provided law enforcement training as the bureau or department determines is necessary in order to carry out the contracted responsibilities; and
 - (f) whether the local law enforcement officials and their agents will be guaranteed, under the contract, all immunities of federal law enforcement officials while exercising the powers and authorities granted in the contract.
- (4) If, after consulting with the attorney general, the chief executive officer of a political subdivision or a county sheriff makes the determination described in Subsection (2), the chief executive officer or county sheriff shall:
 - (a) in accordance with Subsection (5), serve notice of the determination on the bureau personally or by certified mail; and

- (b) provide a copy of the notice described in Subsection (4)(a) to the governor, the attorney general, the state's congressional delegation, and the head of the department.
- (5) The notice described in Subsection (4) shall include:
 - (a) a detailed explanation of the basis for determining that the bureau has violated 43 U.S.C. Sec. 1733(c)(1);
 - (b) a demand that the bureau and the department cease the violation and comply with 43 U.S.C. Sec. 1733(c)(1); and
 - (c) a specific date, no less than 30 days after the day on which the notice is served, by which time the bureau and the department shall:
 - (i) cease the violation and comply with 43 U.S.C. Sec. 1733(c)(1); or
 - (ii) provide the chief executive officer or county sheriff described in Subsection (4) with a plan for ceasing the violation and complying with 43 U.S.C. Sec. 1733(c)(1) that is reasonably acceptable to the political subdivision.
- (6) The chief executive officer of a political subdivision or a county sheriff may agree to a plan described in Subsection (5)(c)(ii).
- (7)
 - (a) If, after the notice described in Subsections (4) and (5) is served, the bureau or the department does not respond by the date described in Subsection (5)(c) or otherwise indicate that the bureau or the department is unwilling to take action to cease the violation of 43 U.S.C. Sec. 1733(c)(1), the chief executive officer or county sheriff may, after consultation with the county attorney and the attorney general, pursue all available legal remedies.
 - (b) In seeking any emergency injunction for a violation of 43 U.S.C. Sec. 1733(c)(1), a chief executive officer of a political subdivision or a county sheriff shall attempt, to the extent possible, to coordinate with the state, the bureau, and the department.

Enacted by Chapter 383, 2016 General Session